

Initial Statement of Reasons

CHAPTER 11. Safe At Home Confidential Address Program

SECTION 22100. Safe At Home And Designated Community-based Assistance Programs

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address

Section 6215.8 Of the government code states that the Secretary of State shall designate state and local agencies and nonprofit agencies that may assist persons applying to be program participants. Subdivision (a) of section 6215.2 Of the government code states that an application for the confidential address program for reproductive health care services providers, employees, volunteers, and patients must be completed in person at a community-based assistance program designated by the Secretary of State.

Specific purpose of the regulation

Subdivision (a) of section 22100 of the proposed regulations establishes the name of the program as safe at home. Subdivisions (b) and (c) limit eligible community-based assistance programs that may serve as enrolling agencies to independent abortion providers and planned parenthood clinics that provide on-site abortions and outline the application process. Subdivision (d) states that all applicant information is confidential and is to be treated as such by enrolling agencies and requires enrolling agencies to forward all applications to the Secretary of State within 24 hours of receipt. Subdivision (e) identifies the grounds upon which an enrolling agency shall cease to be designated as such, applies notification of termination and appeal procedures in section 22130 and require community-based assistance organizations to return all safe at home applications and materials to the Secretary of State within three (3) business days of termination of designation.

Necessity

Section 22100 implements, interprets and makes specific section 6215.8 Of the government code that states that the Secretary of State shall designate state and local agencies and nonprofit agencies that may assist persons applying to be program participants and subdivision (a) of section 6215.2 That states that an application shall be completed in person at a community-based assistance program designated by the Secretary of State.

Identifying eligible community-based assistance programs that may serve as enrolling agencies is necessary to ensure that the purpose of the statute is not circumvented. Specifically, the proposed regulation will prevent individuals and groups that pose a threat to reproductive health care services facilities, providers, employees, volunteers, and patients from being inadvertently designated as enrolling agencies.

The provisions prohibiting enrolling agencies from copying, storing, maintaining, or releasing any information relating to applicants and requiring all application information to be forwarded to the Secretary of State within 24 hours furthers the purpose of ensuring the confidentiality of residential address information of program participants.

The provisions permitting the Secretary of State to terminate designations as enrolling agencies ensure that the duties and responsibilities of enrolling agencies are fulfilled as intended by the legislature. The notification and appeal procedures provide enrolling agencies with proper notice and appeals. If cause exists to terminate designations as enrolling agencies, the Secretary of State wants to ensure control of safe at home applications and materials by requiring any such items to be returned to the Secretary of State within three (3) business days. The Secretary of State believes that three (3) business days is sufficient time to return such items.

Technical, theoretical, and/or empirical study, report, or documents

None.

Alternative to the proposed regulatory action that would be as effective and less burdensome to private persons

No alternative is available.

Alternatives to the proposed regulatory action that would lessen any adverse economic impact on small business

The Secretary of State determines that the proposed regulation will not have a significant adverse economic impact on small business. Eligible community-based assistance programs will voluntarily apply to participate in safe at home. The Secretary of State is unable to determine the number of designated community-based assistance programs that are defined as small businesses. The Secretary of State shall provide the training to counselors and the orientation information. Therefore, the proposed regulations would not result in any adverse economic impact on designated community-based assistance programs that are defined as small businesses.

SECTION 22110. Application and Annual Fees

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address

Subdivision (c) of section 6215.2 Of the government code states that the Secretary of State shall determine the fee for applications submitted by reproductive health care services facilities, providers, employees, and volunteers and that the fee shall not exceed the actual costs of enrolling in the program. Subdivision (c) further states that the Secretary of State may charge annual fees to defray the actual costs of maintaining the program and that annual fees shall be used to reimburse the general fund for any amounts expended for the program.

Specific purpose of the regulation

Subdivision (a) of section 22110 of the proposed regulations establishes a \$30 nonrefundable fee for an application submitted by a reproductive health care services facilities, providers, employees, volunteers, or family member of a program participant who is a reproductive health care services provider, employee or volunteer. Subdivision (b) establishes a nonrefundable \$75 annual fee reproductive health care services facilities, providers, employees, volunteers, and family members who are program participants. The annual fee must be received no later than five (5) business days after the anniversary date of becoming a program participant or the certification shall be terminated in accordance with section 22130. Subdivision (c) states that no application or annual fees shall be charged to reproductive health care services patients or family members of a reproductive health care services patients.

Necessity

The necessity of the proposed regulation is to establish application and annual fees for reproductive health care services facilities, providers, employees, volunteers or family members of program participants who are reproductive health care services providers, employees or volunteers. These fees shall cover the actual costs of enrolling in the program and defray the actual costs of maintaining the program and reimburse the general fund for any amounts expended for the program.

Technical, theoretical, and/or empirical study, report, or documents

Budget change proposal for AB 797, address confidentiality program for women's reproductive health services dated February 18, 2003 (See Attachment A).

Budget change proposal for AB 797, address confidentiality program for women's reproductive health services dated September 20, 2002 (See Attachment B).

Alternative to the proposed regulatory action that would be as effective and less burdensome to private persons

There is no alternative to the proposed regulatory action that would be as effective and less burdensome to private persons. Subdivision (c) of section 6215.2 Of the government code states that the Secretary of State shall determine the fee for applications submitted by reproductive health care services facilities, providers, employees, and volunteers and that the fee shall not exceed the actual costs of enrolling in the program. The application fee of \$30 was determined by the estimated processing time of 30 to 40 minutes required for each application. The job duty of processing applications would be performed by a program technician and includes, but is not limited to, review, research, database entry, certification packet preparation, and identification card preparation. Factored into the fee is the hourly wage for a program technician, including benefits, and additional time that may be required to resolve issues involving incomplete applications. In determining the annual fee the Secretary of State's goal was to defray the actual costs of maintaining the program while ensuring that the fee was not cost prohibitive for program participants.

Safe at home is a voluntary program that offers address confidentiality for reproductive health care services facilities, providers, employees, volunteers, patients, and their families. Threats and acts of violence in the workplace and homes of these individuals are a reality and the \$30 application fee and \$75 annual fee for program participants are minimal in comparison to the benefits offered.

Alternatives to the proposed regulatory action that would lessen any adverse economic impact on small business

There is no alternative to the proposed regulatory action that would lessen any adverse economic impact on small business. The businesses impacted are a select group providing termination of pregnancy, however, the Secretary of State is unable to determine the number of these businesses that are considered to be small businesses. Reproductive health care services facilities and providers may participate in safe at home as enrolling agencies and program participants. There is no charge to become an enrolling agency and the Secretary of State will provide the training to counselors and orientation and application materials. The application fee for reproductive health care services facility or provider is \$30 and the annual

fee is \$75. The application fee covers the actual costs of enrolling in the program and was determined by the estimated processing time of 30 to 40 minutes required for each application. The job duty of processing applications would be performed by a program technician and includes, but is not limited to, review, research, database entry, certification packet preparation, and identification card preparation. Factored into the fee is the hourly wage for a program technician, including benefits, and additional time that may be required to resolve issues involving incomplete applications.

Threats and acts of violence in the workplace and homes of reproductive health care services facilities and providers are a reality, having a significant impact in terms of economics, security, and in the manner in which services are provided. The \$30 application fee and \$75 annual fee will have a minimal economic impact, if any, on small business and will be outweighed by the benefits offered.

SECTION 22120. Renewal

Public problem, administrative requirement, or other condition or circumstance that the proposed action is intended to address

Subdivision (e) of section 6215.2 Of the government code states that the Secretary of State shall establish by rule a renewal procedure. The term of certification as a safe at home program participant is four years for reproductive health care services facilities, providers, employees, and patients. The term of certification for a reproductive health care services volunteer is six months after the last date in which the individual volunteered at a reproductive health care services facility.

Specific purpose of the proposed action

Subdivision (a) of section 22120 of the proposed regulations requires the Secretary of State to mail a renewal application to each program participant, except program participants who are reproductive health care services volunteers, at least (2) months prior to the four-year anniversary date of certification as a program participant. The renewal application must be received by the Secretary of State no later than five (5) days after the expiration of the four-year certification term. Subdivision (b) of section 22120 requires a program participant who is reproductive health care services volunteer to immediately notify the Secretary of State in writing as to the last date he or she volunteered at a reproductive health care services facility. The Secretary of State is required to send a letter of confirmation as to the date the program participant certification shall expire.

Necessity

The term of certification for reproductive health care services facility, provider, employee, patient, or family member of reproductive health care services provider, employee or patient who is a program participant is four years. Subdivision (e) of section 6215.2 Of the government code provides for renewal procedures that shall be established by the Secretary of State. These procedures would require program participants to complete a renewal application that shall verify or update address information to ensure that the database is current. Secondly, the renewal procedure shall assist in determining whether a program participant continues to qualify for safe at home services.

Technical, theoretical, and/or empirical study, report, or documents

None.

Alternative to the proposed regulatory action that would be as effective and less burdensome to private persons

No alternative is available that would be as effective and less burdensome to private persons. The renewal procedures provide that the Secretary of State shall send a renewal notice to program participants, except reproductive health care services volunteers, two months before the program participant certification expires. The Secretary of State must receive the renewal application and \$30 application fee no later than five days after the date of expiration of certification. This provides program participants with a simple yet effective way of continuing as a program participant.

Alternatives to the proposed regulatory action that would lessen any adverse economic impact on small business

The Secretary of State determines that the proposed regulation will not have an economic impact on small business. The renewal procedures provide that the Secretary of State shall send a renewal notice to program participants, except reproductive health care services volunteers, at least two months before the program participant certification expires. The Secretary of State must receive the renewal application and \$30 application fee no later than five days after the date of expiration of certification. This provides all program participants, including those that may be deemed small businesses with a simple yet effective way of continuing as a program participant.

SECTION 22130. Termination Appeal Procedures

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address

Subdivision (c) of section 6215.4 Of the government code states that a program participant shall have five business days in which to appeal a termination under procedures developed by the Secretary of State.

Specific purpose of the regulation

Subdivision (a) of section 22130 of the proposed regulations requires the Secretary of State to send the termination notice by certified mail to program participants and enrolling agencies. The termination notice shall include the grounds for termination, the date in which the termination shall be effective, and the appeal procedures. Subdivision (b) of section 22130 of the proposed regulations states that the appeal shall consist of a statement signed by the program participant or authorized representative of the enrolling agency outlining arguments and facts as to why the certification or designation should not be terminated. Any supporting evidence must be submitted with the signed statement. The Secretary of State shall have three (3) business days to review the appeal, issue a decision, and send the decision to the program participant or enrolling agency by certified mail. Subdivision (c) of section 22100 requires the Secretary of State to continue to act as though the program certification is valid if the appeal process extends beyond the termination date identified in the termination notice. Subdivision (d) states the upon termination of designation as an enrolling agency the community-based assistance program shall cease to represent itself as such, unless and until such time as the Secretary of State reinstates the designation.

Necessity

The necessity of the proposed regulation is to provide program participants and enrolling agencies with an avenue for appealing a termination notice and the Secretary of State with the information necessary to decide whether or not a program participant certification or designation as an enrolling agency should be terminated.

Technical, theoretical, and/or empirical study, report, or documents

None.

Alternative to the proposed regulatory action that would be as effective and less burdensome to private persons

No alternative is available that would be as effective and less burdensome to private persons. The proposed regulations establish a simple avenue for appealing a notice of termination. Program participants are permitted to submit a simple signed statement and supporting documentation as desired. Program participant certification shall remain in effect during pending appeals.

Alternatives to the proposed regulatory action that would lessen any adverse economic impact on small business

The Secretary of State determines that the proposed regulatory action would not have any adverse economic impact on small business. The proposed regulations establish a simple avenue for appealing a notice of termination of designation as an enrolling agency. Program participants and enrolling agencies are permitted to submit a simple signed statement and supporting documentation as desired. Program participant certification shall remain in effect during pending appeals if the process extends beyond the effective date identified in the notification of termination. Whereas designation as an enrolling agency shall not extend beyond the date identified in the notification of termination if the appeal process extends beyond such date.